

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

Ark Laboratory, LLC,

Debtor.

Case No. 23-43403-mlo

Chapter 11

Hon. Maria L. Oxholm

**COMERICA BANK’S SUPPLEMENTAL OBJECTION TO DEBTOR’S
FIRST DAY MOTION FOR USE OF CASH COLLATERAL,
REGARDING ADEQUATE PROTECTION AND RELATED RELIEF**

Comerica Bank (“Comerica”) files this supplemental objection to Debtor’s request to use cash collateral.

1. Ark Laboratory, LLC (“Debtor”) filed its voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) on April 12, 2023 (the “Petition Date”).

2. On April 19, 2023, a week after the commencement of its bankruptcy case, Debtor filed its First Day Motion for Use of Cash Collateral, Regarding Adequate Protection and Related Relief (Doc. 25) (the “Motion”). On April 20, 2023, Comerica filed its Objection to the Motion (Doc. 32) (the “Objection”).

3. Comerica and Debtor negotiated a consensual Interim Order Authorizing Use of Cash Collateral and Granting Adequate Protection, which was entered by the Court on April 24, 2023 at Docket No. 43 (the “Interim Order”).

Undefined capitalized terms in this supplemental objection have the meanings set forth in the Interim Order.

4. The Interim Order authorizes Debtor to use cash collateral in accordance with an approved Budget solely for the Interim Period through May 11, 2023. The Interim Order explicitly states that it resolves the Comerica Objection solely as it relates to the Interim Period. (See Interim Order, paragraph H). The Interim Order further provides that “[t]his Order is entered by consent on an interim basis only and [Comerica] does not consent to the use of cash collateral beyond the date of the final hearing. [Comerica] reserves all of its rights to object to the use of cash collateral beyond the Termination Date.” (See Interim Order, paragraph 18).

5. Since the entry of the Interim Order, Comerica has issued discovery requests to Debtor, as is permitted under paragraph 13 of the Interim Order. Although the Debtor has provided responses to some of Comerica’s requests for documents, a number of the discovery requests have not yet been answered. In addition, Comerica has scheduled the depositions of Debtor’s principal, James Grossi, and its financial advisor, Russell D. Long, but those depositions have not yet taken place.

6. Debtor also has not yet provided a proposed budget for use of cash collateral for the period beyond May 11, 2023. Based upon the information provided to date, Comerica continues to object to Debtor’s request to use cash

collateral beyond the Interim Period. Comerica continues to believe that Debtor's business is not viable, is already administratively insolvent and that an orderly wind down should be commenced immediately. Comerica does not believe that its interest in cash collateral and its other collateral (or the interest of junior secured creditor Peninsula) is adequately protected and leaves the Debtor to its proofs.

7. Comerica incorporates by reference and reasserts the objections set forth in its Objection to the Motion.

For all of the foregoing reasons, Comerica's interest in cash collateral is not adequately protected and Debtor's Motion to use Comerica's cash collateral beyond the Interim Period should be denied.

Dated: May 8, 2023

BODMAN PLC

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CERTIFICATE OF SERVICE

The undersigned certifies that on May 8, 2023, a copy of Comerica Bank's Supplemental Objection to Debtor's First Day Motion for Use of Cash Collateral, Regarding Adequate Protection and Related Relief was served electronically on all parties registered to receive electronic notice of filings in this case via this Court's ECF notification system.

/s/Brian R. Trumbauer

Brian R. Trumbauer